

REMARKS

The Official Action of December 13, 2006, and the prior art relied upon therein have been carefully studied. The claims in the application are now claims 1-15, and these claims define patentable subject matter warranting their allowance. Accordingly, the applicants respectfully request favorable reconsideration and allowance.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 **would be appreciated.**

New claims 7-15 have been added. Support for these claims can be found for example at page 10, line 6; the top paragraph on page 12; and page 14, lines 11-16 of applicants' specification.

New claim 7 is believed to be clearly novel and unobvious over both references applied which do not show or make obvious any combination of Activated Protein C with a chemotherapeutic agent. New claims 8-15 are directed to the new and unobvious use of Activated Protein C for improving prognostic survival in therapy of a malignant tumor.

Applicants note the claim objections, and appreciate the examiner's helpful suggestions. These have all been

adopted, whereby applicants respectfully request withdrawal of such objections. For the record, it is clear that the amendments in question do not add any limitations to the claims, nor are they intended to do so.

Claim 3 has been rejected under the second paragraph of §112. The rejection is respectfully traversed.

Those skilled in the present art would not at all be confused by the term "DIC", and therefore claim 3 in its original form was fully in accordance with §112. It may be further added that if there were any confusion, that confusion would be readily obviated by reading applicants' specification, bearing in mind that claims are to be interpreted in light of an applicant's specification.

Nevertheless in deference to the examiner's views, the examiner's helpful suggestion has been adopted. Such an amendment clearly adds no limitation to claim 3, and is not intended to do so, i.e. claim 3 remains of exactly the same scope.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 1-6 have been rejected under §102 as anticipated by Ogata et al USP 5,831,025 (Ogata). This rejection is respectfully traversed.

Claim 1 has been amended to recite that the claimed medicament is in unit dosage form in an amount effective for the recited therapy. This is not disclosed in Ogata, and thus claim 1 (and all the claims which depend therefrom) define novel subject matter over Ogata.

While there is no rejection based on §103, it may be pointed out that there is nothing in Ogata which would have made it obvious to provide Activated Protein C in a unit dosage form in an amount effective for improving prognostic survival in therapy of a malignant tumor.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 1-6 have also been rejected under §102 as being anticipated by the publication of Walker appearing in The Journal of Biological Chemistry, 6/80, 255(12): 5521-5524 (Walker). This rejection is respectfully traversed.

Walker discloses a study producing results which "indicate that protein S may be a cofactor for activated protein C." (last sentence of the Walker Abstract)

Applicants do not see that Walker discloses a medicament in unit dosage form in an amount effective for improving prognostic survival in therapy of a malignant tumor, wherein the main active ingredient of the medicament is Activated Protein C. Accordingly, Walker does not anticipate

claim 1 or any of the claims which depend from and incorporate the subject matter of claim 1.

No rejection has been imposed under §103, but applicants nevertheless respectfully note that there is nothing in Walker which would have made it obvious to provide Activated Protein C in unit dosage form in an amount effective for improving prognostic survival in therapy of a malignant tumor.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 1-6 have also been rejected on the basis of obviousness-type double patenting over claims 1-3 and 7-9 of Ogata. This rejection is also respectfully traversed.

It has been pointed out above that the entire disclosure of Ogata does not show or make obvious claims 1-6. It therefore follows that consideration of only the claims of Ogata also cannot make obvious the subject matter of applicants' claims 1-6.

Claims 1 and 2 of Ogata are directed to human Activated Protein C. Claims 3 and 7-9 of Ogata are product-by-process claims or hybrid product-by-process claims also directed to human Activated Protein C. These claims of Ogata do not make obvious the medicament of claims 1-6 in unit

dosage form containing an effective amount for the recited therapy.

Withdrawal of the rejection is in order and is respectfully requested.

The prior art documents of record and not relied upon by the PTO have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently material to warrant their application against any of applicants' claims.

Applicants believe that all issues raised in the Official Action have been addressed above in a manner that should lead to patentability of the present application. Favorable consideration and early formal allowance are respectfully requested.

Respectfully submitted,

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